



Development Services Department
City of Frisco, Texas

Memorandum

To: Honorable Mayor Maso and Members of the Frisco City Council

Cc: George A. Purefoy, City Manager
John Lettelleir, AICP, Director of Development Services

From: Scott Ingalls, AICP, Development Coordinator

Date: 12/07/2009

Agenda Caption: Consider and act upon a request to call a public hearing to amend Article II, Section 3.04 of the Comprehensive Zoning Ordinance pertaining to alcoholic beverage variances.

Action Requested: The City Council is asked to consider the request as stated in the agenda caption.

Background Information: The City received a request to consider a variance to the requirements of the Comprehensive Zoning Ordinance (CZO) to allow the sale of beer and wine at a convenience store that is adjacent to a Frisco ISD elementary school. The ordinance states that the sale of beer and wine is prohibited within 300-feet of a school. This distance is measured from property line to property line. The proposed convenience store is located next to the school, and does not meet the 300 foot separation requirement of the CZO.

In August, the City Council approved amendments to the CZO pertaining to the sale of alcoholic beverages. Not included in those CZO amendments was the ability for a party to request a variance to the requirements. State Statutes allows the City Council to consider variances to the new requirements if the ability to do so is adopted under an ordinance. Under State Statute the Council may grant variances if in a particular instance it is determined that it:

- Is not in the best interest of the public;
- Constitutes waste or inefficient use of land or other resources;
- Creates an undue hardship on an applicant for a license or permit;
- Does not serve its intended purpose;

- Is not effective or necessary; **or**
- For any other reason the Council determines is in the best interest of the community.

If the City Council desires the ability to consider variance request then the ordinance needs to be amended to provide for this function. Calling the public hearing initiates the case to commence the process in amending the CZO. Calling the public hearing does not commit the City Council in their ultimate decision to amend the ordinance.

Board Review/Citizen Input: If the City Council approves the call for public hearing the Planning & Zoning Commission will hold a public hearing in January 2010 with a public hearing before the City Council in February 2010.

Alternatives: The City Council may:

- Approve the request to call a public hearing;
- Deny the request to call a public hearing; or
- Table for further review.

Financial Considerations: Not applicable.

Legal Review: Not applicable at this time; however, staff has consulted with the City Attorney regarding the process of amending the CZO.

Supporting Documents: Not applicable.

Staff Recommendation: The City Council call a public hearing to amend the CZO to allow the consideration of variances regarding the distance from schools if this is the direction they wish to take.